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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,858	02/16/2001	Victor T. Foia	13424	3871
23389	7590	04/14/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			POINVIL, FRANTZY	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/784,858	FOIA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Frantzy Poinvil	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 16 February 2001.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-41 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 21-33 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 36-41 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linden et al (US Patent No. 6,360,254).

As per claims 1 and 15, Linden et al disclose a system and method for allowing a user to purchase online gift certificate. The system and method comprise means and steps of: authorizing a first party to receive a service by providing a service account to the party containing login identification information (see figure 8 wherein it is illustrated a first party or user (who may be a first time customer or a returning customer) accesses a website and uses ID and password for creating an account);

providing tokens (or gift certificate See figure 8 of Linden et al.) for the first party to purchase to be used in exchange for support services and authorizing the first party to allocate the tokens to other parties designated at the first party's discretion; (this is similar to a first party purchasing a gift certificate and designating another entity to use the gift certificate in exchange for services or for future purchases in a website or store. See figure 8); accepting the tokens (or the gift certificate) from the first party's designee (see figures 9 and 10 of Linden et al.) and;

providing support services to the party possessing the tokens in exchange for the tokens (see figures 9 and 10) of Linden et al.

Applicant is also directed to column 10, line 42 to column 11, line 16 of Linden et al.

The only difference between the claimed invention and Linden et al is that Linden et al provide to the entities gift certificates instead of tokens, and the service is the purchasing of an item instead of support services.

As per these differences, the Examiner asserts that all the steps and functions within Linden et al and the claimed invention are similar. The type of services is not a patentable difference. The gift certificate or tokens are used as negotiable instruments that may be used for the exchange of services, or purchase of items. In so doing they may be used as alternative types of payment for a rendered service or for the purchase or exchange of an item.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Linden et al to use tokens as payment in exchange of services provided as a support service in order to widen the scope of Linden et al.

As per claims 2 and 16, Linden et al teach that all authorizations and the means for providing, accepting and exchanging are provided over a computer network. See figures 8-10 of Linden et al.

As per claim 3, the gift certificates or tokens are provided and exchanged electronically over a computer network. See figures 8-10 of Linden et al.

As per claims 4 and 5, the teachings of Linden et al are discussed above. Linden et al do not explicitly state the tokens or gift certificates are purchased and their cost differs based on a volume purchased. The Examiner asserts that when a large quantities of an item is purchased, a

rebate or discount is usually given to the buyer making such a large purchase. It would have been obvious to one of ordinary skill in the art at the time of the invention to also provide such a marketing scheme into the system of Linden et al in order to provide an incentive to these types of customers for customer retention purposes.

As per claims 6-9, the Examiner notes that depending of the types of services, the date and/or time of day the service is being rendered, and the duration the support services supplied, the rates or costs or charges would be differ as such are common knowledge to a businessman thereby associating costs based on these variables.

As per claim 10, the identification information is similar to the password or tokens noted in Linden et al as being a unique multi-digit alphanumeric character string.

As per claims 12-14 and 17-19, the other parties would have been any desired parties being designated by the first party.

As per claim 20, the means for authorizing the first party to buy an item is an acceptance of an electronic application on a computer network. See figures 8-10 of Linden et al.

2. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable Hirshland, Christine "NEC Introduces Versa M Series of powerful, modular, multimedia capable notebook computers", PR Newswire, New York, September 15, 1994 in view of Linden et al (US Patent No. 6,360,254).

As per claims 34 and 35, Hirshland, Christine discloses a warranty system or product support service system for a notebook. See the article. Hirshland states that a user who has

purchased a notebook, completes and submits an online product registration form via a computer network system and may opt to receive one free year of UltraCare service and/or two additional years of UltraService for \$99. See page 4 of the article. Hirshland does not explicitly disclose a computer network for transferring, providing tokens, transferring and receiving tokens. Linden et al disclose a system and method for allowing a user to purchase online gift certificate via a computer network. The computer network is used for:

Transferring the approval of an application, which contains login identification and passwords composed of an alphanumeric character string, from a gift certificate store to a first party; providing gift certificates to be purchased by the approved first party from a provider of a product ; transferring and receiving gift certificates to and from the first party and the provider, and; receiving gift certificates from any designee of the first party in exchange for a product whereby the approved first party is identified by the login identification and purchases the gift certificates which are then distributed to the designee who, in turn returns the gift certificate in exchange for a product from the provider.

It should be noted that Linden et al provide to the entities gift certificates instead of tokens, and the service is the purchasing of an item instead of support services.

As per these differences, the Examiner asserts that all the steps and functions within Linden et al and these functions are similar. The type of services is not a patentable difference. The gift certificate or tokens are used as negotiable instruments that may be used for the exchange of services, or purchase of items. In so doing they may be used as alternative types of payment for a rendered service or for the purchase or exchange of an item.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hirshland with that of Linden et al so as to use tokens as payment in exchange of services provided as a support service in order to allow a user to pay for product support services on a needed basis whereby a designated party may also pay for the service in the absence of the first party.

***Allowable Subject Matter***

3. The prior art taken alone or in combination failed to teach or suggest the authorizing the allocator to designate a technician who may receive the product support service and instructing the allocator to provide the technician with the identification, tokens and passwords as recited in claim 21.

4. Claim 36 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art taken alone or in combination failed to teach or suggest: the representative provides the buyer with the login identification and passwords, the buyer designates an allocator who designates a technician, the buyer transfers the tokens, login identification and passwords to the allocator; and the allocator transfers the tokens to the technicians who exchanges them for product support as recited in claim 36.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP  
March 16, 2005

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
Art 3628